



UNITED NATIONS

THIRD CONFERENCE
ON THE LAW OF THE SEA

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2002/05/23 : CIA-RDP82S00697R000300070016-3

PROVISIONAL

For participants only

A/CONF.62/C.3/SR.16

27 August 1974

ORIGINAL: ENGLISH

Second Session

THIRD COMMITTEE

PROVISIONAL SUMMARY RECORD OF THE SIXTEENTH MEETING

Held at the Parque Central, Caracas,
on Friday, 23 August 1974, at 3.20 p.m.

Chairman:

Mr. YANKOV

Bulgaria

Rapporteur:

Mr. HASSAN

Sudan

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ORGANIZATION OF WORK

Mr. ORION (Israel) said that in the informal meetings of the Committee, his delegation had made a proposal concerning co-operation among neighbouring coastal States bordering special areas like the Mediterranean. The proposal had not been discussed or included in the summary of the results of consideration of proposals and amendments relating to the preservation of the marine environment (CRP/MP/14).

Annex I of the 1973 IMCO Convention on Pollution from Ships had singled out special areas which, because of their particular oceanographic and ecological condition and the particular characteristics of their traffic, required special methods for the prevention of marine pollution. Regional co-operation in such areas was of utmost importance and he requested the Chairman of the informal sessions on preservation of the marine environment to include the Israeli proposal in his report in the same way that the proposals of various delegations had been included in document CRP/Sc/Res./41.

The CHAIRMAN said that it was not advisable to reopen the discussion on that item at the present moment and took it that the representative of Israel had merely wished to have the views of his delegation included in the records of the Conference.

Mr. SANDERS (Guyana) requested the Secretariat to issue a check list of all documents relating to the present stage of the work of the Committee.

The CHAIRMAN said that all official documents in the L. series would be annexed to the Statement of Activities of the Committee.

Mr. Hoor Tempis LIVI (Italy) said that it was his understanding that all working papers from the informal sessions and in particular document CRP/MP.3/Add.1/Rev would be before the Committee at the next session. His delegation reserved the right to refer to that working paper at the next session.

The CHAIRMAN said that all documents relating to the work of informal meetings of the Committee would be attached to the reports by the Chairmen of those meetings. Delegations were free to refer to any item at the next session.

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DEVELOPMENT AND TRANSFER OF TECHNOLOGY: INTRODUCTION OF DRAFT PROPOSALS
(A/CONF.62/C.3/L.3, L.12 and L.13) (continued)

Mr. VANDERGERT (Sri Lanka) commended the study by the Secretariat on the problems of the acquisition and transfer of marine technology (A/CONF.62/C.3/L.3). His delegation had intended to introduce a document (A/CONF.62/C.3/L.11) containing a draft article on the development and transfer of technology which was complementary to the proposal submitted by the representative of Nigeria on that subject (A/CONF.62/C.3/L.8). However, as a result of consultations with other interested delegations within the Group of 77, a set of articles on that subject had been elaborated, incorporating the basic ideas contained in his delegation's draft articles. He therefore wished to withdraw document A/CONF.62/C.3/L.11.

The CHAIRMAN noted that document A/CONF.62/C.3/L.11 had been withdrawn at the request of its sponsor.

Miss AGUTA (Nigeria) introduced document A/CONF.62/C.3/L.12, which had been prepared by a drafting group of the Group of 77. In view of the limited time left at the present session, the sponsors had decided to submit the document to the Committee at that stage. Other delegations had since indicated their support for the proposals and had offered to co-sponsor it; their names would be added to the list of sponsors in a revised version.

It was important to begin discussions on the development and transfer of technology, an essential ingredient of any Law of the Sea Convention. The wording of the present document could be refined and improved if necessary, but the ideas it contained were sound and merited consideration. The draft articles (A/CONF.62/C.3/L.12) were intended to deal not with the question of aid to developing countries which would be covered by the Convention, but rather with a "give-and-take" between States for the benefit of mankind as a whole.

Article 1 dealt with the obligation of States to promote the scientific and technological capabilities of developing countries in the exploration, exploitation, conservation and management of the marine environment and ways and means by which those objectives could be achieved.

Article 2 dealt with the obligation of States to co-operate with the international Authority to be established under the Convention.

Article 3 the key article of the draft, dealt with the obligations and responsibilities of the proposed Authority to assist the developing countries in the

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acquisition of the requisite technological know-how, including the establishment of a special fund to help developing States in that respect.

Article 4 contained proposals for the establishment of regional scientific centres in co-ordination with the authority and other international organizations and national marine scientific and technological institutes and the functions of such regional centres.

Mr. HUSSAIN (Pakistan) endorsed the views expressed by the representative of Nigeria on the development and transfer of technology. With few exceptions, marine scientific activities in developing countries were limited. There was a lack of knowledge of oceanographic conditions and of the marine environment. Exploitation of marine resources in those countries was hampered by numerous technological and scientific problems which could only be solved by a rapid transfer of technology and the development of marine science.

The draft articles submitted in document A/CONF.62/L.12, of which his delegation was a sponsor, were intended to outline the immediate steps which should be taken to assist developing countries in the development of their marine scientific research capabilities. He emphasized the need for international co-operation and technical assistance in the establishment of regional institutions, exchange of data, transfer of appropriate technical know-how, training of personnel from developing countries in marine technology, and exchanges of scientists and experts under bilateral or multilateral programmes. Such regional institutions should have access to scientific and technological information. The bilateral and multilateral programmes envisaged in the document were an important means of promoting interest in marine scientific research in developing countries and would facilitate co-operation among those countries. Extensive training programmes geared to the needs of developing countries and in line with national programmes to develop marine scientific research capabilities for the purpose of exploration and exploitation of marine resources should be undertaken.

His delegation shared the view that the international Authority should play an important role in helping developing countries to acquire know-how, including patented and non-patented technology, in accordance with the provisions of article 3 of the document under consideration, which also envisaged the establishment of a special fund for that purpose. The transfer of technology to developing countries should be on reasonable terms and in accordance with the economic capabilities, level of development and national requirements of those countries.

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Mr. MANSFIELD (New Zealand) welcomed document A/CONF.62/C.3/L.12 as a significant event in the work of the Committee, and supported its general tenor. While specific provision might require revision, it would be an excellent basis for the work of the next session.

His delegation attached considerable importance to the transfer of technology and believed that the present Conference must produce worthwhile results in that field in the form of concrete obligations. The acquisition of technology by developing countries was essential in order to enable them to explore effectively, exploit and manage the sea-bed and water column resources in areas within their jurisdiction. His delegation would not wish to see a perpetuation of the present situation in which the technology required for the exploitation of sea-bed resources was concentrated exclusively in the hands of a few countries.

Mr. JAIN (India) said that document A/CONF.62/C.3/L.12 marked a significant advance in the field of the transfer of technology. His delegation supported the general approach of the draft articles and would have sponsored them had it had sufficient time to study it.

The development and transfer of technology was of the utmost importance to developing countries. He had heard unofficially that as a result of the initiative taken by the Group of 77 some technologically advanced countries appeared to have taken decisions which were detrimental to the interests of developing countries. He deplored such actions and hoped that those countries would review their decision in the light of the views expressed by his delegation in that connexion at the 9th meeting of the Committee (A/CONF.62/C.3/SR.9). There was a need for give and take between technologically advanced countries and developing countries; the former had technology to export and the latter had resources they wanted to import.

Referring to the draft articles under consideration, he said that his delegation would have liked to see specific mention of the development of shipbuilding and the acquisition of knowledge concerning the seas in paragraph 1 of article 1 of that document and the addition of the words "to less technologically developed States" in paragraph 2 of that article.

Mr. WYNDHAM (Australia) said that as an importer of technology, his country shared the vital interests of developing countries in the transfer of technology and welcomed the proposals in document A/CONF.62/C.3/L.12. Developing countries must have access to marine technology in order to exploit the resources in zones under their sovereignty or jurisdiction. He suggested that the proposals be examined in the /...

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(Mr. Wyndham, Australia)

context of the work being done by United Nations agencies in the field of the transfer of technology; and, in particular, by the UNCTAD Intergovernmental Group on the Transfer of Technology, and in the light of the Charter of the Economic Rights and Duties of States.

Mr. GURYE (Senegal) said that as a sponsor of document A/CONF.62/C.3/L.12, his delegation considered that the proposals it contained would provide a useful basis for the future work of the Committee. He hoped that it would find support among developed countries. The transfer of technology was of vital interest to developing countries in the fight against underdevelopment.

Mr. VELLA (Malta) welcomed the draft articles introduced by the Nigerian representative. His delegation would give careful study to the proposals and might be in a position to join the list of sponsors at a later stage, particularly in view of the remarks by the representative of Nigeria regarding the possibility of incorporating changes in the document.

Mr. MBOTE (Kenya) said he agreed in principle with the approach taken in document A/CONF.62/C.3/L.12. If the developing countries were to have rights and obligations with regard to marine scientific research, they would have to develop their technology. Although many General Assembly resolutions on the transfer of technology had been adopted, few had been implemented. He noted with apprehension the fact that the developed States had more or less disregarded the subject of the transfer of technology, but hoped that they would state their views in more detailed discussion of the question.

Mr. LU (China), Mr. KOLCHAKOV (Bulgaria), Mr. MANANSALA (Philippines), Mr. O HEOCHA (Ireland) and Mr. PAPAGEORGIOU (Greece) supported the view that the draft articles contained in document A/CONF.62/C.3/L.12 would provide a useful basis for consideration of the question of the development and transfer of technology at the next session of the Conference.

Mr. SULAIMAN (United Republic of Tanzania), Mr. SALLAH (Gambia) and Mr. COLLINS (Liberia) announced that their delegations would co-sponsor the draft articles contained in document A/CONF.62/C.3/L.12.

Mr. CHATMAN announced that Mr. SALLAH had also agreed to co-sponsor the draft articles contained in document A/CONF.62/C.3/L.12.

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Miss MARIANT (France) said that the draft articles on development and transfer of technology, particularly articles 1, 2 and 4, were of great interest to her delegation. It was interested in the question of the transfer of technology and hoped to submit appropriate proposals at the next session of the Conference.

Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) said that the transfer of technology involved complex new branches of technology which were already regulated to a certain extent in international law. He suggested that the World Intellectual Property Organization should be invited to the next session of the Conference.

The CHAIRMAN said that the question of which institutions concerned with patents or copyrights would be invited had not yet been considered. The proposal to invite the World Intellectual Property Organization would be considered at an appropriate time.

Miss AGUTA (Nigeria) expressed her appreciation to all delegations which had supported the draft articles on the development and transfer of technology, and particularly to the new sponsors. She looked forward to working on the draft articles at the following session and hoped that still more delegations would agree to co-sponsor the draft.

SCIENTIFIC RESEARCH (A/CONF.62/C.3/L.13) (continued)

Mr. ZULETA TORRES (Colombia) introduced the draft articles on marine scientific research contained in document A/CONF.62/C.3/L.13, which reflected the consensus of the Group of 77 in the Third Committee but did not commit its members to any final position.

The draft articles were the result of the efforts of a number of developing countries which wished to reconcile their national interests with those of the international community with a view to stimulating scientific research without prejudice to the legitimate rights of coastal States and land-locked and other geographically disadvantaged developing States. They provided for the right of the coastal State to conduct marine scientific research and to regulate it within the area in which it had competence, without prejudice to the limits and nature of its jurisdiction, which was being discussed by the Second Committee. In the international area the international authority, whose structure was being decided by the First Committee, was to have full competence. The basic principle embodied in the document

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was that marine scientific research should not be conducted without the consent of the coastal State and that other States, international or regional organizations and juridical and physical persons must seek the consent of the coastal State.

Marine scientific research was essential to the rational management of the living and non-living resources of the water column, the sea-bed and the subsoil thereof, and to the maintenance of the ecological balance of the seas for the benefit of future generations. The coastal State should, however, in order to defend its own resources and for reasons of security, regulate research with a view to reducing the technological gap between the developed and developing countries. It should have the right to ensure that the research would be exclusively for peaceful purposes, that it would have unrestricted access to all raw and processed data and final conclusions and evaluations, and that the research would in no way affect the marine environment or violate international environmental standards.

Mr. JAIN (India) said that, although he was a member of the Group of 77, he had reservations with regard to some points in the draft articles, in particular the reference to "satellite" in item 2 (b), paragraph 2 (2), and to the reference to "remote sensing devices operating in the atmosphere or beyond" in item 2 (b), paragraph 2 (5). The draft articles dealt with the regulation of marine scientific research in the area under national jurisdiction and/or sovereignty, which he understood to refer to the economic zone and the continental shelf, and also in the international area. Any marine scientific data, whether derived from pure or other scientific research, could be of use in matters relating to security, resource management and general uses of the seas. Once the coastal State had ensured that research would not interfere with its security interests or with resource management, it should not hinder research in the economic zone or on the continental shelf.

Mr. MBOTE (Kenya) fully supported the draft articles contained in document A/CONF.62/C.3/L.13. Since the draft articles were supported by a majority of members of the Conference, represented by the Group of 77, he requested the Chairman to include in his report a clear and specific statement of the support given to the draft articles.

The CHAIRMAN observed that the document spoke for itself as it represented the consensus of the Group of 77, and that any support expressed would be reflected in the statements of the various representatives. It would be almost impossible for the Rapporteur to ascertain exactly how many delegations supported each document.

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Mr. LU (China) said that his delegation fully supported the draft articles contained in document A/CONF.62/C.3/L.13, and regarded them as a very significant contribution by the Group of 77. He proposed that the draft articles should be used as a basis for consideration of marine scientific research at the next session of the Conference. He endorsed the suggestion made by the representative of Kenya regarding the support expressed for the draft articles.

Mr. KOVALEV (Union of Soviet Socialist Republics) noted that the draft article contained in document A/CONF.62/C.3/L.13 dealt with some of the most important aspects of marine scientific research and gave rise to serious concern. However, the draft could hardly be considered as anything other than an attempt to hinder negotiations and prevent the achievement of a consensus in the interests of all countries and all groups of countries. Adoption of the provisions in the draft would not only interfere with the progress of marine science, but might even bring scientific research to a halt with all the consequences which that would entail, primarily for the developing countries. The procedures provided for in the draft would seriously delay the organization of scientific research, which could make research outdated before it was undertaken.

Item 2 (a), paragraph 2, would give the international authority a monopoly on scientific research; even those countries which supported that approach must realize that it could not serve as a basis for negotiation. The only basis for negotiation was freedom of scientific research in the high seas conducted for peaceful purposes and in accordance with the general principles of international law and environmental standards. In any case, it was quite clear that the international authority would not have the necessary resources to conduct marine scientific research; marine scientific research was very expensive. Moreover, it was simply unrealistic to expect that sovereign States would place their own scientific personnel and research ships and institutions under the control of the international authority. Giving the international authority a monopoly on scientific research would only result in paralysing such research in the world ocean.

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(Mr. Kovalev, USSR)

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His delegation had frequently stated its views on the manner of conducting scientific research in the high seas. With a view to reaching a compromise solution at the current session, it had proposed that research on living and non-living resources of the economic zones should be conducted with the consent of the coastal State. Unfortunately, however, no attempts whatsoever had been made towards compromise during the current session, and now a draft representing the most extreme position had been prepared at the last moment and submitted to the Committee. He reiterated his delegation's position that all problems relating to the sea were interrelated and should be approached as a whole. One of the most basic parts of the package was freedom of scientific research. Mutually acceptable solutions of other problems could be achieved only if the problem of scientific research was resolved in a way which would take account of the interests, not only of one group of countries, but of all countries in the world.

Commenting on the draft articles contained in document A/CONF.62/C.3/L.12, he said they contained many interesting ideas worthy of consideration, but his delegation could not accept the provision in article 3, subparagraph (1), that the international authority should be competent in marine scientific research as a whole. The approach taken by his delegation with regard to the development and transfer of technology was reflected in the draft it had submitted on pollution prevention and scientific research. If agreement was reached on the freedom of scientific research, his delegation was ready to support the inclusion in the future Convention of provisions on the transfer of technology to the developing countries. However, if delegations were sincerely interested in the success of the Conference, they must all demonstrate a readiness to consider each other's interests.

Miss BIMI (Somalia) said that her delegation did not share the opinion of the representative of India concerning the interpretation of the reference to the various areas under the jurisdiction and sovereignty of the coastal State in the note with one asterisk in document A/CONF.62/C.3/L.13. Her delegation considered that the territorial sea, the economic zone, the patrimonial sea and the continental shelf all had been intended.

Her delegation also supported the constructive proposal made by the representative of Kenya.

Mr. LEON (Ecuador) said that the wording of article 1 of document A/CONF.62/C.3/L.13 posed certain problems for his delegation. Nevertheless, it supported the remaining articles in that document since they reflected the approach

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(Mr. Leon, Ecuador)

already taken in Ecuador's national legislation. A number of delegations had expressed the fear that such an approach to the coastal State's control over scientific research in areas under its jurisdiction would be detrimental to the freedom of scientific research. Such was not necessarily the case. In 1972 Ecuador had received 15 requests to carry out scientific research in zones under its national jurisdiction or sovereignty. After having been brought into line with Ecuadorian law, all had been approved.

Mr. SANDERS (Guyana), quoting a United States Department of Defence study which indicated that only 20 per cent of all marine scientific research was carried out beyond the 200-mile limit, concluded that the provisions of item 2 (a), paragraph 2, of document A/CONF.62/C.3/L.13, applying as they did to only one-fifth of all scientific research, should not be a cause of extreme consternation. The purpose of that article was to ensure that the international authority itself would conduct scientific research in the international zone, or in any event maintain effective control over such research. Therefore, scientific research in the international area would be under the control of a international authority which in turn would be under the control of all States in the international community.

Mr. ZULETA (Colombia), referring to comments which had been made concerning document A/CONF.62/C.3/L.13, emphasized that that document did not represent the final position of its sponsors. With regard to item 2 (a), paragraph 2, he emphasized that the developing countries would prefer the international authority in which all States would be represented rather than one or two technologically advanced countries to have a monopoly of scientific research in the international area.

Mr. LUND (Norway) requested a clarification as to the meaning of the reference to "the remaining international area" in the note with two asterisks of document A/CONF.62/C.3/L.13 submitted by Colombia.

Mr. ZULETA (Colombia) said that that note had been so worded in order not to prejudice the future determination of the area over which the international authority would have competence.

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Mr. SCOTT (Intergovernmental Oceanographic Commission, UNESCO), speaking at the invitation of the Chairman, referred the Committee to the earlier statement made by the Assistant Director-General of UNESCO for the Natural Sciences at the forty-first plenary meeting of the Conference.

Though legally and historically a part of UNESCO, IOC had its own membership, and its own Assembly and Executive Council. Eighty-one member States, a majority of which were developing countries, belonged to IOC and the UNESCO Executive Board had recently urged the Director-General to continue his efforts to encourage member States of UNESCO particularly developing countries, to join IOC and participate in its activities.

The high cost of oceanographic research, particularly the purchase and maintenance of ships and equipment, was the reason why there was more international understanding and co-operation in oceanography than in most other sciences. Even the richest developed countries had recognized that they could not "go it alone" and had to co-operate for the benefit of all. The World Data Center was an example of such universally beneficial co-operation. By contributing data to that system, a State gained access to all available data from other sources. Every country therefore had an interest in stimulating marine science and technology to the greatest degree.

With regard to scientific research, which IOC preferred to call "scientific investigation of the oceans", the functions of the Commission were to develop, recommend and co-ordinate international programmes for scientific investigation in the oceans and related services; to promote and make recommendations for the exchange of oceanographic data and the publication and dissemination of the results of scientific investigation of the oceans; and to promote freedom of scientific investigation of the ocean for the benefit of all mankind, taking into account all the interests and rights of coastal countries concerning scientific research in the zone under their jurisdiction.

In carrying out that mandate the Commission had for many years sponsored multidisciplinary International Co-operative Investigations in a number of regional areas. In the Caribbean, mechanisms were being developed to continue the co-operation initiated under the Co-operative Investigations and to provide additional benefits to the participating States.

Such co-operative investigations often resulted in continued co-operation between member States of a region in the field of marine science and in the building up of their marine science infrastructures. Atlases embodying the data collected during the

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expeditions were published, such as the atlas on the physical oceanography of the tropical Atlantic published by UNESCO in 1973. A second volume dealing with chemical and biological oceanography was in preparation.

A number of programmes were being developed under the International Decade of Ocean Exploration to investigate certain oceanographic phenomena. For example, IOC was planning an investigation to be carried in conjunction with FAO and WMO of the warm coastal current known as "El Niño", which appeared periodically off the west coast of South America and caused the nutrient-rich upwelling to cease, with the concomitant disappearance of the anchoveta to the great detriment of the local fisheries upon which the economy of the coastal States largely depended. Participation in such programmes was open to all States subject to three conditions: (1) that the participation of developing countries in all phases of the work from planning to final results be strongly encouraged in connexion with the development and transfer of technology; (2) that collected data and samples, as well as the final conclusions, be made available as soon as possible to the coastal States; (3) that research must be conducted for peaceful purposes.

In the field of pollution control, an IOC International Co-ordination Group had just completed the preparation of a comprehensive plan for the Global Investigation of Pollution in the Marine Environment (GIPME). At a meeting held in July at United Nations Headquarters that plan had been unanimously adopted for transmission to the IOC Executive Council. The plan contained a large number of projects calling for concerted action by developed and developing countries alike, by bodies in the United Nations system, and by non-governmental and regional organizations. Marine pollution monitoring would be pursued in co-operation with the Global Environmental Monitoring System (GEMS) of the United Nations Environment Programme (UNEP), and research projects on both processes and methodology would also be set up with the financial support of and in close co-operation with UNEP.

In the realm of the transfer of technology, the IOC working committee on training, education and mutual assistance was acting as a co-ordinating body for the marine science activities of the United Nations and the specialized agencies participating in the Inter-secretariat Committee on Scientific Programmes relating to oceanography (ICSPRO). A series of regional workshops were planned to identify the needs and

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aspirations of coastal States, the first of which was scheduled to be held at Casablanca in November with participants coming from all countries in the region stretching from Tunisia to the Ivory Coast.

A study project on mutual assistance between States leading to a transfer of science and technology was in preparation. A consultant had already completed the preliminary study and IOC was awaiting comments on it from its member States.

At the eighth session of its Assembly the previous November, IOC had adopted resolution VIII-35, which stated its readiness, within the scope of its competence, to respond to all possible requests for scientific and technological advice from the Third United Nations Conference on the Law of the Sea and expressed the wish that the Conference take into account the opinion of IOC on the importance of promoting the scientific exploration of the ocean with a view to global study of its nature and resources. If the Conference intended to make any such requests, it would be advisable for them to be formulated before the end of the current session so that a response could be made in time for the next session of the Conference. For its part UNESCO pledged its co-operation with the work and follow-up of the Conference.

The CHAIRMAN expressed the appreciation of the Committee for IOC's offer of scientific and technical advice. The Committee might wish to take a formal decision to request the advice of IOC for the next session of the Conference.

Mr. YANEZ-BARNUEVO (Spain), Mr. JAIN (India), Miss MARIANI (France), Mr. KACHURINSKY (Ukrainian Soviet Socialist Republic, Mr. HUSSAIN (Pakistan) and Mr. MDOFE (Kenya) welcomed the Chairman's suggestion.

Mr. VARGAS (Mexico) recalled that General Assembly resolution 2467 (XXIII) invited IOC to co-operate fully with the Sea-Bed Committee. As a member of IOC, his delegation would like to see that body prepare a document in which special emphasis would be placed on the interests and needs of developing countries in the realm of marine scientific research.

Provisions on many of the elements to which the Secretary of IOC had just referred had been embodied in document A/CONF.62/C.3/L.12.

The meeting rose at 6.20 p.m.